



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,385	12/21/2001	Gabriel Garcia Montero	RSW920010210US1 (026)	1061

46320 7590 07/29/2010  
CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP  
STEVEN M. GREENBERG  
950 PENINSULA CORPORATE CIRCLE  
SUITE 2022  
BOCA RATON, FL 33487

EXAMINER
----------

RECEK, JASON D

ART UNIT	PAPER NUMBER
----------	--------------

2442

MAIL DATE	DELIVERY MODE
-----------	---------------

07/29/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/026,385	<b>Applicant(s)</b> MONTERO, GABRIEL GARCIA	
	<b>Examiner</b> JASON RECEK	<b>Art Unit</b> 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 10-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 6/1/10 has been entered.

### ***Status of Claims***

Claims 1-9 have been cancelled per applicant's amendment. Claims 10-21 are pending, of which claims 10, 14 and 18 are in independent form.

### ***Response to Arguments***

2. Applicant's arguments, see pg. 6-8, fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Yeager et al. US 6,735,770 B1.

***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claim 18, it is drawn to a computer readable storage medium. Such a medium covers forms of non-transitory tangible media and transitory signals under the broadest reasonable interpretation. In this case no limiting definition is provided by the specification to exclude signal media. Therefore the claim is covers a signal and must be rejected as covering non-statutory subject matter. The claim may be made patent eligible by amending the claim to recite a "non-transitory computer readable storage medium". Claims 19-21 are rejected based on their dependency.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10, 12-14, 16-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight US 6,493,703 in view of Yeager et al. US 6,735,770 B1.

Regarding claim 1, Knight discloses "receiving, from a message publisher, a request to create a topic; subdividing the topic into a plurality of subtopics; storing, within separate ones of the plurality of subtopics, messages posted to the topic; receiving, from a message subscriber, a request to retrieve messages from the topic" a message board that organizes content for access by subscribers (abstract), posting logic for appropriate subclass (col. 12 ln. 2-6, 16-23), information in subject areas is broken down into sub-classification (col. 10 ln. 12-14) and process is performed by search robots (i.e. threads, col. 10 ln. 15-19), as discussed in the previous office actions and the decision of the BPAI dated 3/30/10.

Knight also discloses "retrieving the messages, from within the separates ones of the plurality of subtopics, respectively using the separate retrieval threads of execution for each specific subtopic" as a series of software robots (separate threads) for retrieving content (abstract, col. 5 ln. 45-49, Fig. 4).

Knight not explicitly disclose "upon determining that the messages exist, for the request topic, within the separate ones of the plurality of subtopics, creating a separate retrieval thread of execution for each specific subtopic" however it does suggest this (especially considering the Board's finding on pg. 9 concerning claim 5) by teaching that a customized robot is invoked upon query (col. 6 ln. 6-10). Nevertheless this is explicitly disclosed by Yeager as initializing a thread for message retrieval (col. 7 ln. 65 – col. 8 ln. 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Knight with the thread initialization taught by Yeager for the purpose of processing requests. It is well known in the art to use multiple threads to handle

Art Unit: 2442

requests (as evidenced by both Knight and Yeager). Therefore, this is merely the combination of known elements according to their established function in order to yield a predictable result.

Regarding claim 12, Knight discloses "said message server resides in at least one process address space" (col. 10 ln. 62 – col. 11 ln. 1, Fig. 3A).

Regarding claim 13, Knight discloses "said at least one process address space is a Java virtual machine" (col. 10 ln. 62 – col. 11 ln. 1, Fig. 3A).

Claims 14 and 16-17 are system claims that correspond to the method of claims 10 and 12-13 respectively, therefore they are rejected for similar reasons.

Claims 18 and 20-21 are medium claims that correspond to the method of claims 10 and 12-13 respectively, therefore they are rejected for similar reasons.

6. Claims 11, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight and Yeager in view of Razdan et al. US 2002/0141584 A1.

Regarding claim 11, the combination of Knight and Yeager does not explicitly disclose "said message server is Java message service (JMS) compliant". However, Razdan discloses: "The application may deliver the reports created by the accounting

Art Unit: 2442

module as HTTP GET message. The server-to-server communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service (JMS)," (paragraph [0081] on page 7). It would have been obvious for one of ordinary skill in the art at the time of the applicant's invention to have said message server as Java message service (JMS) compliant. "Similarly, Publisher's webserver will communicate with Clearinghouse web server to collect tracking information. Clearinghouse web server will send a HTTP POST message 410 to Publisher to relay the transaction information, and other tracking information it has collected during the course of the day or a given time period that is agreed to by the Publisher and Clearinghouse. Publisher may send HTTP POST message 462 on its own initiative to request transactional, tracking and auditing information from the Clearinghouse. This communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service," (paragraph [0082] on page 7 in Razdan). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have said message server as Java message service (JMS) compliant in the combination taught by Knight and Yeager.

Claims 15 and 19 correspond to claim 11 and therefore are rejected for similar reasons.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yokobori et al. US 7,024,455 B2 discloses storing messages and classifying into themes (abstract).

Cragun US 6,557,027 B1 discloses receiving messages and dividing into sub-topics (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON RECEK whose telephone number is (571)270-1975. The examiner can normally be reached on Mon - Fri 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Asad Nawaz can be reached on 571-272-3988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2442

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Recek/  
Examiner, Art Unit 2442  
(571) 270-1975

/Asad M Nawaz/  
Supervisory Patent Examiner, Art Unit 2442